

HB 414 – AS AMENDED BY THE SENATE

13Mar2013... 0636h

06/06/13 1597s

06/06/13 2026s

2013 SESSION

13-0505

06/01

HOUSE BILL **414**

AN ACT relative to privacy in the workplace and relative to legislative approval of collective bargaining agreements entered into by the state.

SPONSORS: Rep. K. Rogers, Merr 28; Rep. P. Sullivan, Hills 10; Sen. Soucy, Dist 18

COMMITTEE: Labor, Industrial and Rehabilitative Services

AMENDED ANALYSIS

This bill prohibits an employer from requiring an employee or prospective employee to disclose his or her social media or electronic mail passwords. This bill also requires approval by the fiscal committee of the general court of the cost items of all collective bargaining agreements entered into by the state.

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Explanation: Matter added to current law appears in **bold italics**.  
Matter removed from current law appears [~~in brackets and struck through.~~]  
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Thirteen*

AN ACT relative to privacy in the workplace and relative to legislative approval of collective bargaining agreements entered into by the state.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

1 1 New Subdivision; Use of Social Media and Electronic Mail. Amend RSA 275 by inserting after  
2 section 70 the following new subdivision:

3 Use of Social Media and Electronic Mail

4 275:71 Definitions. In this subdivision:

5 I. "Social media" means an electronic medium where users may create and view user-  
6 generated content, including but not limited to uploading or downloading videos or still photographs,  
7 blogs, video blogs, podcasts, or instant messages.

8 II. "Personal account" means an account, service, or profile on a social networking website  
9 that is used by a current or prospective employee primarily for personal communications unrelated  
10 to any business purposes of the employer. This definition shall not apply to any account, service, or  
11 profile created, maintained, used, or accessed by a current or prospective employee for business  
12 purposes of the employer or to engage in business related communications.

13 275:72 Use of Social Media and Electronic Mail.

14 I. No employer shall request or require that an employee or prospective employee disclose a  
15 user name and password for accessing any personal account or service through an electronic  
16 communication device.

17 II. No employer shall compel an employee or applicant to add anyone, including the  
18 employer or the employer's agent, to a list of contacts associated with an electronic mail account or  
19 personal account or require, request, suggest, or cause an employee or applicant to change the  
20 privacy settings associated with any electronic mail or personal account.

21 III. No employer shall take or threaten to take disciplinary action against any employee for  
22 such employee's refusal to provide a user name and password, to add anyone to a list of contacts, or  
23 to change a privacy setting.

24 IV. Nothing in this subdivision shall limit an employer's right to:

25 (a) Adopt and enforce lawful workplace policies governing the use of the employer's  
26 electronic equipment, including policies regarding Internet use, social networking site use, and  
27 electronic mail use.

1 (b) Monitor usage of the employer’s electronic equipment and electronic mail.

2 V. Nothing in this subdivision shall prohibit an employer from obtaining information about  
3 an employee or prospective employee that is in the public domain or to prevent an employer from  
4 conducting an investigation to ensure compliance with securities or financial laws or other  
5 regulatory requirements based on information on an employee’s personal website, Internet website,  
6 or web-based account or similar account for business purposes, except as proscribed in paragraph I  
7 and II.

8 VI. Nothing in this subdivision shall be construed to prevent an employer from complying  
9 with the requirements of state or federal statutes, rules or regulations, case law, or rules of self-  
10 regulatory organizations.

11 275:73 Penalty. Any employer violating RSA 275:72 shall be subject to a civil penalty, to be  
12 imposed by the labor commissioner in accordance with the procedures established in RSA 273:11-a.  
13 An employer aggrieved by the commissioner’s assessment of such penalty may appeal in accordance  
14 with RSA 273:11-c.

15 2 New Paragraph; Bargaining by State Employees. Amend RSA 273-A:9 by inserting after  
16 paragraph I the following new paragraph:

17 I-a. Notwithstanding any other provision of law to the contrary, the cost items of every  
18 collective bargaining agreement entered into by the state shall be approved by the fiscal committee  
19 of the general court before each takes effect.

20 3 Effective Date. This act shall take effect 60 days after its passage.